

have recently reaffirmed that policy. We believe, however, that we should adopt this new FCC policy for Lifeline customers because it is a mandatory part of the new federal Lifeline program. Companies cannot qualify as ETCs if they do not meet this requirement.

Even though the "no-disconnect" provision is required by the FCC Order, ETCs under the FCC Order may apply to their state commissions for a waiver of the "no-disconnect" requirement. The ETC must show that: 1) The ETC would incur substantial costs in complying with such a requirement; 2) the ETC offers toll-limitation services to its Lifeline subscribers; and 3) telephone subscribership among low-income consumers in its service area in the state from which it seeks the waiver is at least as high as the national subscribership level for low-income consumers. All of these requirements must be met for an ETC to receive a waiver.

States, however, may grant waivers to carriers that are technically incapable of providing toll limitation services while they upgrade their switches to provide such services. The FCC made it clear that it expects waivers to be granted very infrequently, as evidenced by the burden of proof it has placed on the carriers. If granted, waivers may be effective for no more than two years, but may be renewed.

Presently, toll limitation services can be provided only in certain areas of the state. Most carriers can provide toll blocking, but not toll control. We believe that carriers desirous of receiving federal support should provide the services upon which that support is contingent. Carriers who cannot provide full toll limitation services must provide a plan and time line to us for their provision. The FCC has agreed that carriers providing voluntary toll limitation should be compensated from universal service support mechanisms for the incremental cost of providing toll-limiting services. See FCC Order No. 97-157, ¶386. No intrastate funding is available in Florida.

Upon consideration, we find that ETCs shall not disconnect local service for Lifeline customers for non-payment of toll charges; however, ETCs may disconnect a customer's toll service for non-payment of toll service. ETCs should make toll limitation services available to customers on a voluntary basis and at no charge, in exchange for reduced or zero deposits. ETCs unable to provide toll limitation services at this time should file implementation plans and a request for waiver with this Commission by October 23, 1997.

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V. INCREASED FEDERAL SUPPORT FOR LIFELINE ASSISTANCE PLAN

Under the current Lifeline program, end-user charges are reduced for local service to low-income consumers. As implemented in Florida and in most other participating states, a subscriber's monthly bill is reduced by up to twice the \$3.50 Subscriber Line Charge (SLC). The federal jurisdiction allows for a waiver of the \$3.50 SLC, while the states contribute a matching amount of \$3.50. The state portion may be provided for through the ratemaking process, which is the case in Florida.

The new plan adopted by the FCC provides for federal baseline support of up to \$5.25 in all states, with no matching state support required. As stated in the FCC's Order:

Lifeline consumers will continue to receive the \$3.50 in federal support that is currently available. . . . For Lifeline consumers in a given state to receive the additional \$1.75 in federal support, that state need only approve the reduction in the portion of the intrastate rate paid by the end user; no state matching is required.

FCC Order 97-157, ¶ 351

The Florida legislature has expressed its intent that Florida LECs should participate in the federal Lifeline Assistance Plan as evidenced by Chapter 364.10, Florida Statutes. Florida consumers may receive an additional benefit with no further action on the part of the state beyond the adoption of the new discounted rate. We believe it is in the best interests of Florida's Lifeline subscribers to obtain this benefit.

Accordingly, we approve a reduction of \$1.75 in the amount paid by consumers participating in Lifeline. As discussed above, no matching state support is required.

VI. APPLICATION FOR ADDITIONAL FEDERAL SUPPORT FOR LIFELINE

In addition to the \$1.75 baseline support, the federal universal service fund will provide an additional amount equal to one half of any support generated from the intrastate jurisdiction, up to an additional \$1.75. Approval of this portion of the plan

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would bring total federal Lifeline support to \$7.00. In other words, if the state supports \$3.50 per lifeline consumer, the federal jurisdiction will provide another \$1.75 above the \$5.25 (\$3.50 + \$1.75) baseline amount.

Intrastate matching may be provided from any source. The Federal-State Joint Board noted in its Recommended Decision that many states currently generate matching amounts through the state rate-regulation process. Although the Joint Board suggested that states should explicitly fund such reductions, rather than recovering the amounts through rates paid by other customers, the FCC declined to implement a specific requirement, stating:

We see no reason at this time to intrude . . . on states' decisions about how to generate intrastate support for Lifeline. We do not currently prescribe the methods states must use to generate intrastate Lifeline support, nor does this Order contain any such prescriptions. Many methods exist, including competitively neutral surcharges on all carriers or the use of general revenues, that would not place the burden on any single group of carriers. We note, however, that states must meet the requirements of section 254(e) in providing equitable and non-discriminatory support for state universal service support mechanisms.

FCC Order 97-157, ¶ 361

In Florida, Lifeline has been implemented under Section 364.10(2), Florida Statutes. The statute states that ". . . a telecommunications company serving as carrier of last resort shall provide a Lifeline Assistance Plan to qualified residential subscribers, as defined in a commission-approved tariff. . . ." However, there is no state funding for the program. Instead, the LECs provide a rate reduction of \$3.50 per month to Lifeline consumers. ALECs are not required to provide a Lifeline program, nor do other carriers contribute to the funding of the intrastate portion. While the FCC has not mandated the creation of a state fund for carriers to obtain the \$1.75 federal contribution above the baseline, it appears that a rather broad hint has been given. We have filed a petition with the FCC seeking clarification of both this state matching funding issue and the default customer eligibility requirements for the Lifeline program.

We previously addressed the Lifeline issue in our report on "Universal Service in Florida" which was provided to the Governor

and the Legislature in December 1996. The report states at page 47:

At present, no universal service funding at the state level is provided for Lifeline . . . assistance. While this lack of funding may have been appropriate under rate of return regulation, under which a LEC could apply for rate increases if needed, we believe it is less appropriate in a competitive climate. Those companies with qualifying customers could provide a disproportionate share of the funding for those customers, while companies with no customers would not contribute anything. This would be a disadvantage to the company serving the most low-income customers. Therefore, we believe provisions should be made to allow future funding of these programs through the state universal service fund, to the extent not funded through federal programs.

If needed, a Lifeline fund could be established as part of a permanent state Universal Service mechanism. Lifeline could also be funded by other means, such as a surcharge like that used to fund the Telecommunications Relay System.

We have attempted to quantify the impact of the various possibilities on Florida. At present, the Lifeline participation level in Florida is approximately two percent of residential access lines. As previously stated, this is below the national average of about five percent. However, some Florida LECs only began to provide Lifeline in 1995, and thus have low participation levels. If we assume five percent participation, the federal funding level of \$5.25 per subscriber could provide funding of about \$22 million for Florida. With additional Lifeline support of \$3.50 per subscriber provided by the state, the federal portion would increase to \$7.00 per access line, for a total of \$10.50 in Lifeline support for each subscriber. The total amount under this scenario would be \$45 million. Of this amount, \$15 million would come from the state, and \$30 million would come from federal funding.

Upon consideration, we find that, due to the uncertainty regarding whether Florida's Lifeline Assistance Plan will meet federal requirements for state matching, Florida should not pursue the additional \$1.75 in federal funding at this time. Pursuant to Section 364.10(2), Florida Statutes, telecommunications carriers of last resort must provide a Lifeline Assistance Plan to their

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customers. However, it is not clear the statutory requirement meets the FCC's criteria that state Lifeline programs must be provided in an equitable and non-discriminatory manner. Until further guidance is received from the FCC or from the Florida Legislature, we will take no action on this issue.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the incumbent local exchange companies are hereby designated as eligible telecommunications carriers (ETCs) for purposes of the federal universal service program. It is further

ORDERED that, on an interim basis, ETCs shall provide Lifeline and Link Up information in their telephone directories and through bill stuffers as specified in the body of this Order. It is further

ORDERED that ETCs are required to work with local welfare agencies, to the extent it is possible, to reach eligible subscribers. It is further

ORDERED that ETCs may not disconnect local telephone service for Lifeline customers for non-payment of toll charges. It is further

ORDERED that ETCs shall provide Lifeline customers with toll limitation services at no charge as specified in the body of this Order. It is further

ORDERED that a reduction of \$1.75 in the amount paid by consumers participating in the Lifeline program is hereby approved, and ETCs shall discount rates to Lifeline subscribers accordingly as specified in the body of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, these dockets shall be closed. A protest timely filed pertaining to a

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specific ETC shall not prevent this Order from becoming final with respect to the non-protested ETCs.

By ORDER of the Florida Public Service Commission this 14th day of October, 1997.

/s/ Blanca S. Bayó
BLANCA S. BAYÓ, Director
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-850-413-6770.

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 4, 1997.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court.

This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules

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of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Establishment of eligible)
telecommunications carriers)
pursuant to Section 214(e))
of the Telecommunications)
Act of 1996.)
_____)

Docket No. 970644-TP

In re: Implementation of)
changes in the Federal Lifeline)
Assistance Plan currently)
provided by telecommunications)
carriers of last resort.)
_____)

Docket No. 970744-TP

Date Filed: October 30, 1997

**PETITION FOR SECTION 120.57(2) HEARING
AND PROTEST OF PROPOSED AGENCY ACTION**

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, file this protest of proposed agency action and petition for a hearing to be held pursuant to section 120.57(2), Florida Statutes (1996 Supp.).

1. Section 350.0611, Florida Statutes (1995) authorizes the Public Counsel to appear, in the name of the state or its citizens, in any proceeding or action before the Commission and to urge therein any position which he deems to be in the public interest.

2. Florida Public Service Commission order No. PSC-97-1262-FOF-TP issued October 14, 1997, adversely affects the substantial interests of the Citizens by failing to pursue an available \$1.75 in federal matching funding for Lifeline subscribers.

3. The report and order of the Federal Communications Commission in CC Docket No. 96-45 released May 8, 1997 ("Report and Order") expanded and increased the amount of federal lifeline support available to the states. Paragraph 353 of the Report and Order states that

"We conclude that our approach accomplishes the Joint Board's goal of increasing subscribership and maximizing matching incentives. We conclude that providing Lifeline support in all states, irrespective of state participation, will help increase subscribership in those states that presently do not participate in the Lifeline program. At the same time, we conclude that our additional support offers states an incentive to generate intrastate support to receive the additional \$1.75 (over \$5.25) in federal support and thus will increase support in many states. We have no reason to conclude that states will not participate in the modified Lifeline program." (underlining added).

Footnote 891 to this section states

"Under our new plan, low-income consumers will receive the full \$10.50 in support if their state provides \$3.50 in intrastate support, as now occurs in 44 jurisdictions."

5. The Federal Communications Commission made it abundantly clear that it was *not* prescribing any particular method of generating the intrastate support for Lifeline, even though the states must meet the requirements of section 254(e) in providing equitable and non-discriminatory support for state universal service support mechanisms. Specifically, paragraph 361 of the Report and Order states

"The Joint Board observed that many states currently generate their matching funds through the state rate-regulation process. These states allow incumbent LECs to recover the revenue the carriers lose from charging Lifeline

customers less by charging other subscribers more. Florida PSC points out that this method of generating Lifeline support from the intrastate jurisdiction could result in some carriers (i.e., ILECs) bearing an unreasonable share of the program's costs. We see no reason at this time to intrude in the first instance on states' decisions about how to generate intrastate support for Lifeline. We do not currently prescribe the methods states must use to generate intrastate Lifeline support, nor does this Order contain any such prescriptions." (Underlining added).

6. Despite this clear indication by the Federal Communications Commission that existing state programs would continue to be eligible to receive federal matching money and that it was not prescribing any particular method of state funding, Florida Public Service Commission Order No. PSC-97-1262-FOF-TP declined to seek federal matching money, to the detriment of Florida's Lifeline customers. The Commission found that "due to the uncertainty regarding whether Florida's Lifeline Assistance Plan will meet federal requirements for state matching, Florida should not pursue the additional \$1.75 in federal funding at this time." Order No. PSC-97-1262-FOF-TP at page 10. Rather than aggressively seeking the federal matching money to benefit Lifeline customers in Florida, the Commission cited uncertainty as a reason not to seek available federal funding that would reduce the price paid by Florida Lifeline customers.

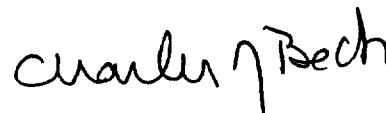
8. The Citizens submit the following issues of law and policy for resolution by the Commission in a hearing held pursuant to Section 120.57(2), Florida Statutes:

- a. Does Florida's Lifeline Assistance Plan meet federal requirements for matching funds?
 - b. Should the Florida Public Service Commission affirmatively seek, an additional \$1.75 per Lifeline customer in federal funding?
9. This protest of the Commission's proposed agency action is limited solely to the issue of whether Florida should seek the federal matching money for Lifeline customers from the Federal Communications Commission and whether Florida Lifeline's program meets such requirements. This protest is not intended to affect any other portion of Order No. PSC-97-1262-FOF-TP.

WHEREFORE, the Citizens file this protest of the proposed agency action contained in Order No. PSC-97-1262-FOF-TP and request a hearing held pursuant to Section 120.57(2), Florida Statutes (1996 Supp.).

Respectfully submitted,

JACK SHREVE
Public Counsel



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CERTIFICATE OF SERVICE

Docket Nos. 970644-TL & 970744-TP

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 30st day of October, 1997.

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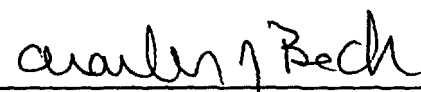
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